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In re Application of	:	
KRIBUS et al	:	DECISION ON
Application No.: 10/556,341	:	
PCT No.: PCT/IL2004/000406	:	
Int. Filing Date: 12 May 2004	:	PETITION UNDER
Priority Date: 12 May 2003	:	
Attorney Docket No.: 30903	:	
For: SMALL-SCALE, CONCENTRATING, SOLAR	:	
CHP SYSTEM	:	37 CFR 1.181

This decision is in response to the "PETITION UNDER 37 CFR 1.181(A) TO WITHDRAW HOLDING OF ABANDONMENT," filed on 29 September 2008. Applicants have submitted, inter alia, a copy of the 17 April 2007 PTO stamped itemized postcard receipt. The stamped postcard lists the following item: Response to Missing Requirements of March 26, 2007.

BACKGROUND

On 10 November 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter at such time.

On 26 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by the International application number and international filing date. ... in that it is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The notice indicated that the items above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 13 August 2008, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that the application is abandoned because applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 03/26/2007 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 13 August 2008, applicants submitted on 29 September 2008 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, applicants have provided a copy of the stamped receipt card acknowledging a receipt date of 17 April 2007, within the time period of response for the response to the notice of missing requirements of March 26, 2007.

DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly with the USPTO as indicated in the stamped postcard:

- (1) Response to File Missing Requirements of March 26, 2007

The postcard lists the above items and bears a USPTO date of stamp as April 17, 2007.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that the Response to Missing Requirements of March 26, 2007 including the executed Declaration was deposited with the U.S. Patent and Trademark Office on 17 April 2007, and petitioner has stated that these copies are true copies of the original filed copy.

Accordingly, the date of receipt for the Declaration is 17 April 2007, which is considered timely. Accordingly, the instant application has been improperly abandoned.

DECISION

The petition under 37 CFR 1.181 is GRANTED. The Notification of Abandonment (PCT/DO/EO/909) mailed 13 August 2008 was in error and is hereby VACATED.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date is 17 April 2007.



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